



UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mitsuki MORITANI et al.
Title: CONTENT INFORMATION MANAGEMENT APPARATUS
AND CONTENT INFORMATION MANAGEMENT METHOD
Appl. No.: 10/783,200
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Sir:

In accordance with the **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed. A Notice of Appeal is being filed concurrently herewith.

The following rejections are being presented for review. Claims 1-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,393,301 to Oda in view of U.S. Patent No. 6,831,902 to Dougherty et al.; claims 1, 6, 7, 12, 13 and 18-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,973,333 to O'Neil in view of Dougherty et al.; and claims 2-5, 8-11 and 14-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Neil in view of Dougherty et al. and further in view of Oda

Independent Claims 1, 7 and 13:

Independent claim 1 is directed to a mobile terminal communication restricting device for performing communication restriction on a call-in or call-out occurring between a mobile terminal. Claim 1 recites a mobile terminal communication restricting device that is

configured to transmit to said mobile terminal a communication restricting message, which is actually used in said existing mobile communication network, for informing the mobile terminal of performing the communication restriction on a layer-3 of the Open Systems Interconnection protocol, if a call-in or call-out has occurred between the mobile terminal and an existing mobile communication network.

Independent claim 7 is directed to a communication restricting method and independent claim 13 is directed to a communication restricting program that include similar features to those provided in the above paragraph with respect to independent claim 1.

Oda and Dougherty et al.:

As mentioned above, independent claim 1 recites that the communication restricting message, which is actually used in the existing mobile communication network, for informing the mobile terminal of performing the communication restriction on a layer-3 of the Open Systems Interconnection protocol (emphasis added). The final Office Action asserts that column 5, lines 41-56 of Oda teaches these features, but Applicant respectfully disagrees. Rather, in the system of Oda, an in-car accessory 30 includes a car speed detector, whereby, when the car speed detector detects that the vehicle is moving, an incoming phone call is set to a phone-answering mode instead of a communication mode. See also Figure 1 of Oda, in which a mode switch signal is sent from the in-car accessory 10 to the mobile telephone 20, both within the vehicle.

Note that the communications between the in-car accessory 10 and the mobile telephone 20 are based on them being located close to each other, and thus there is no need or desire to utilize a particular communication protocol format utilized by a network in which incoming and outgoing calls are provided to/from the mobile telephone. Accordingly, while it is correctly acknowledged on page 3, lines 1-2 of the Office Action that Oda does not teach that the message is sent on a layer-3 of the Open System Interconnection protocol, the assertion that one of ordinary skill in the art would be motivated to utilize such a message as taught by Dougherty is incorrect, since there is no useful reason to utilize such a standard for messages sent between adjacently-located devices within a vehicle. In other words, to utilize the Open System Interconnection protocol for a message sent from the in-car accessory 10 and the mobile telephone 20 adds needless complexity to those components, which would be something one of ordinary skill in the art would not do. Put in yet another way, why would

one of ordinary skill in the art utilize a particular network communication protocol for messages sent between two devices that do not communicate with each other via the network? The answer is that one of ordinary skill in the art would have no reason to adopt such a particular network communication standard for such message transfer between those two adjacently-located devices.

The final Office Action argues that since the OSI protocol is well known, it would have been obvious to utilize it in the system of Oda, but that does not make sense to use it within a vehicle compartment where there are only two components that are communicating with each other, and thus the issues regarding multiple elements that communicate with each other over a network does not exist within the vehicle compartment of Oda. Thus, there is no reason to utilize a layer-3 OSI protocol for communications between two elements within the vehicle compartment of Oda, since it adds unnecessary complexity to that system without providing any advantages.

Accordingly, since Oda does not teach or suggest all of the features recited in claim 1, and since one of ordinary skill in the art would not be motivated to modify Oda based on the teachings of Dougherty as discussed above, independent claim 1 is patentable over the combined teachings of Oda and Dougherty.

The Advisory Action dated August 8, 2007 states that “it is obvious for the restricting message to be sent in a protocol that is widely used as shown in US Patent No. 6,831,902 (Dougherty et al.) so that any mobile phone would be able to receive and process the message.” However, this statement misses the point, since as discussed in detail above, one of ordinary skill in the art would understand that there is no useful reason to utilize a layer-3 OSI protocol for communications between two elements within a vehicle compartment of Oda, since it adds unnecessary complexity to that system without providing any advantages. This fact does not change for a case whereby different types of mobile phones are to be utilized to receive and process a message, since there are still only two elements in the vehicle compartment of Ods, those being the mobile phone and the in-car accessory, and thus to add a protocol layer would cause unnecessary complexity to his system without adding any material value to his system. Put in another way, to provide for communications between a mobile phone of any particular type and an in-car accessory of Oda is all that is needed in Oda to allow for communications between those two devices, since those are the only two devices that are within communications distance of each other in the vehicle compartment of Oda,

whereby a network is not needed for such two devices to communicate with each other.

O'Neil and Dougherty et al. and Oda:

O'Neil describes the providing of restrictions to use of cellular phones based on several factors, including location and vehicle speed. These restrictions are such that cellular phone use is prohibited in certain areas or under certain conditions. These restrictions are sent via control messages that are not used in the existing mobile communication network. Rather, as described in column 9, lines 17-37 of O'Neil, the restriction messages are sent to the cellular phone via other means, and not from a base station over an existing network. See also, column 12, lines 26-51 of O'Neil, with respect to customer restriction servers (CSRs). Thus, O'Neil does not meet the specific features recited in independent claim 1, and since Dougherty et al. and Oda do not rectify these deficiencies of O'Neil, claims 1-20 are patentable over the combined teachings of those three references.

It is noted that the Advisory Action dated August 8, 2007 does not address the above comments with respect to the combination of O'Neil, Dougherty et al. and Oda, which were included in the response filed on July 2, 2007 to the final Office Action.

Respectfully submitted,

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